

06 Desc Petition


INVOLUNTARY

FORM 5. INVOLUNTARY PETITION

United States Bankruptcy Court		IN VOLUNTARY PETITION
Northern District of	Illinois	
IN RE (Name of Debtor - If Individual: Last, First, Middle)		ALL OTHER NAMES used by debtor in the last 6 years (Include married, maiden, and trade names.)
Nachshon Draiman		Nachshon Draiman dba Future Associates ND, 150 N Harbor Dr., 5th Fl., Chicago, IL. 60601-7501
Last four digits of Soc. Sec. No./Complete Tax I.D. No.		
100-44-9649		
STREET ADDRESS OF DEBTOR (No. and street, city, state, and zip code)		MAILING ADDRESS OF DEBTOR (If different from street address)
7520 N. Skokie Blvd., Skokie, IL. 60077		
COUNTY OF RESIDENCE OR PRINCIPAL PLACE OF BUSINESS		
Cook		
LOCATION OF PRINCIPAL ASSETS OF BUSINESS DEBTOR (If different from previously listed addresses)		
CHAPTER OF BANKRUPTCY CODE UNDER WHICH PETITION IS FILED		
<input checked="" type="checkbox"/> Chapter 7 <input type="checkbox"/> Chapter 11		
INFORMATION REGARDING DEBTOR (Check applicable boxes)		
Petitioners believe:		TYPE OF DEBTOR
<input type="checkbox"/> Debts are primarily consumer debts		<input checked="" type="checkbox"/> Individual <input type="checkbox"/> Corporation Publicly Held
<input checked="" type="checkbox"/> Debts are primarily business debts (complete sections A and B)		<input type="checkbox"/> Partnership <input type="checkbox"/> Corporation Not Publicly Held
		<input type="checkbox"/> Other: _____
A. TYPE OF BUSINESS (Check one)		B. BRIEFLY DESCRIBE NATURE OF BUSINESS
<input type="checkbox"/> Professional <input type="checkbox"/> Transportation <input type="checkbox"/> Commodity Broker		Marketing and selling Deregulated Natural Gas to end users thru Peoples Gas, North Shore Gas and Nicor Gas in Illinois
<input type="checkbox"/> Retail/Wholesale <input type="checkbox"/> Manufacturing/ <input type="checkbox"/> Construction		
<input type="checkbox"/> Railroad <input type="checkbox"/> Mining <input type="checkbox"/> Real Estate		
<input type="checkbox"/> Stockbroker <input checked="" type="checkbox"/> Other		
VENUE		
<input checked="" type="checkbox"/> Debtor has been domiciled or has had a residence, principal place of business, or principal assets in the District for 180 days immediately preceding the date of this petition or for a longer part of such 180 days than in any other District.		
<input type="checkbox"/> A bankruptcy case concerning debtor's affiliate, general partner or partnership is pending in this District.		
PENDING BANKRUPTCY CASE FILED BY OR AGAINST ANY PARTNER OR AFFILIATE OF THIS DEBTOR (Report information for any additional cases on attached sheets.)		
Name of Debtor	Case Number	Date
Relationship	District	Judge
ALLEGATIONS (Check applicable boxes)		
1. <input checked="" type="checkbox"/> Petitioner(s) are eligible to file this petition pursuant to 11 U.S.C. § 301		
2. <input type="checkbox"/> The debtor is a person against whom an order for relief may be entered of the United States Code.		
3.a. <input type="checkbox"/> The debtor is generally not paying such debtor's debts as they become due such debts are the subject of a bona fide dispute;		
or		
b. <input type="checkbox"/> Within 120 days preceding the filing of this petition, a custodian, other receiver, or agent appointed or authorized to take charge of less than all of the property of the debtor for the purpose of enforcing a lien against property, was appointed or took possession.		

U.S. Bankruptcy Court
Northern District Of Illinois

Filed: 03/24/2004
Time: 15:05:00
Debtor: NACHSHON DRAIMAN
Case: 04-11689 Fee : 209
Chapter: 7 Rec. # : 3070726
Judge: Eugene Wedoff
341 mtg: 05/07/2004 @ 02:00PM
Trustee: R. SCOTT ALSTERDA



FORM 5 Involuntary Petition
(6/92)

Name of Debtor Nachshon Draiman

Case No. _____
(court use only)

TRANSFER OF CLAIM

☐ Check this box if there has been a transfer of any claim against the debtor by or to any petitioner. Attach all documents evidencing the transfer and any statements that are required under Bankruptcy Rule 1003(a).

REQUEST FOR RELIEF

Petitioner(s) request that an order for relief be entered against the debtor under the chapter of title 11, United States Code, specified in this petition.

Petitioner(s) declare under penalty of perjury that the foregoing is true and correct according to the best of their knowledge, information, and belief.

X [Signature]
Signature of Petitioner or Representative (State title)
Yehuda Draiman March 24, 2004

Name of Petitioner Date Signed

Name & Mailing Yehuda Draiman,
2640 W. Touhy Ave., No. 210, Chicago, IL.
Address of Individual 60645

Signing in Representative
Capacity [Signature]

X N/A
Signature of Attorney Date

Name of Attorney Firm (If any)

Address

Telephone No.

X [Signature]
Signature of Petitioner or Representative (State title)
M. DRAIMAN CORP. 3-24-2004
Name of Petitioner Date Signed

Name & Mailing 2640 W. TOUHY AVE STE 210
Address of Individual CHICAGO, IL. 60645
Signing in Representative
Capacity [Signature]

X _____
Signature of Attorney Date

Name of Attorney Firm (If any)

Address

Telephone No.

X [Signature]
Signature of Petitioner or Representative (State title)
U.S. GAS & ENERGY CORP. 3-24-2004
Name of Petitioner Date Signed

Name & Mailing 2640 W. TOUHY AVE STE 210
Address of Individual CHICAGO, IL. 60645
Signing in Representative
Capacity [Signature]

X _____
Signature of Attorney Date

Name of Attorney Firm (If any)

Address

Telephone No.

PETITIONING CREDITORS

Name and Address of Petitioner	Nature of Claim	Amount of Claim
Yehuda Draiman, 2640 W. Touhy, No. 210, Chicago, IL. 60645	Fees due for sale natural gas futures, consulting	\$990,890.00 + Int.
Name and Address of Petitioner	Nature of Claim	Amount of Claim
M. Draiman Corp., 2640 W. Touhy Ave, No. 210, Chicago, IL. 60645	Commissions due for natural gas sales, consul	\$250,000.00 + Int.
Name and Address of Petitioner	Nature of Claim	Amount of Claim
U.S. Gas & Energy Corp., 2640 W. Touhy Ave., No. 210, Chicago, IL. 60645	Fees due for sale of natural gas & consulting	\$150,000.00 + Int.
Note: If there are more than three petitioners, attach additional sheets with the statement under penalty of perjury, each petitioner's signature under the statement and the name of attorney and petitioning creditor information in the format above.	Total Amount of Petitioners' Claims \$1,390,890.00 + Int.	

_____ continuation sheets attached

IN THE FEDERAL DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

DYNEGY MARKETING and TRADE, a
Colorado Partnership,

Plaintiff,

v.

MULTIUT CORPORATION, an Illinois
Corporation and NACHSON DRAIMAN,
an Illinois Resident,

Defendants.

02C 7446
JUDGE NORDBERG

MAGISTRATE JUDGE MASON

FILED-ED5

02 OCT 16 PM 4:15

CLERK
U.S. DISTRICT COURT

COMPLAINT

Dyegy Marketing and Trade ("Dyegy"), by its attorneys, complains of Multiut Corporation ("Multiut") and Nachshon Draiman ("Draiman") as follows:

DOCKETED
OCT 17 2002

THE PARTIES

1. Dyegy is a Colorado general partnership with its principle place of business in Houston, Texas. The only partners of the partnership are Dyegy GP, Inc., a Delaware corporation, and DMT Holdings, LP, a Delaware limited partnership (f/k/a NGC GP, Inc.).
2. Multiut is an Illinois corporation with its principle place of business located in Cook County, Illinois.
3. Draiman is an individual residing in Cook County, Illinois.

JURISDICTION
AND VENUE

4. This Court has jurisdiction, under 28 U.S.C. § 1332(a)(1), because the matter in controversy exceeds the sum or value of \$75,000, exclusive of interest and costs, and is between citizens of different states.

5. Venue is proper, under 28 U.S.C. § 1391(a), because the defendants reside in and a substantial part of the events or omissions giving rise to the claim occurred in this judicial district.

COUNT I
(Breach of Agreement)

6. On or about January 1, 1994, Multiut signed a Natural Gas Sales Agreement with Natural Gas Clearinghouse ("NGC") for the purchase and sale of natural gas (the "Agreement"). A true and correct copy of the Agreement, with Exhibits A and B, is attached as Exhibit 1.

7. On July 7, 1998, NGC changed its name to Dynegy Marketing and Trade

8. Under the Agreement, Multiut "[acted] as the duly authorized agent and representative of ultimate consumers and users of natural gas delivered to Multiut under the Agreement." (Agreement, page 1).

9. Under the Agreement, Multiut is "responsible for collecting payment from its principals. The payment to [Dynegy] by Multiut on behalf of Multiut's principals shall be due on the twentieth (20th) day of the month, or as to statements delivered after the tenth (10th), within ten (10) days after receipt of such statements." (Agreement, page 5, Article V-A (2).)

10. Dynegy delivered and/or Multiut received invoices, for the purchase and sale of natural gas under the Agreement, in each month from October 2000 through September 2002, inclusive (the "Invoices").

11. Multiut breached the Agreement by failing and/or refusing to pay the Invoices in full when due.

12. As of October 11, 2002, the unpaid principal balance due under the Invoices, after application of payments in accordance with Article V-A(3) of the Agreement, is \$20,325,574.63 (the "Unpaid Principal Balance").

13. Under the Agreement, "Should Multiut fail to pay all of the amount of any bill when the same becomes due, Multiut shall pay [Dynergy] a late charge on the unpaid balance that shall accrue on each calendar day from the due date at a rate equal to two percent (2%) above the then-effective monthly prime commercial lending rate per annum announced by The Federal Reserve Bulletin from time to time . . ." In addition, "the late charge...shall compound monthly". (Agreement, page 5, Article V-A (3).)

14. Under the Agreement, "If either principal or late charges are due, any payments thereafter received shall first be applied to the late charges due, then to the previously outstanding principal due and lastly, to the most current principal due." (Agreement, page 5, Article V-A (3)).

15. As of October 11, 2002, the amount of interest due, in accordance with Article V-A(3) of the Agreement, is \$1,673,139.68 (the "Interest").

16. Dynergy has performed all its obligations under the Agreement.

WHEREFORE, Dynergy requests entry of a judgment in its favor and against Multiut, for \$20,325,574.63, plus interest, through October 11, 2002, of \$1,673,139.68 and such other relief as the Court deems appropriate.

COUNT II
(Breach of Guaranty)

17. Dynergy repeats and reasserts the allegations of paragraphs 1 through 16, inclusive, as paragraph 17.

18. On or about October 31, 1995, Draiman and Multiut executed a Guaranty (the "Guaranty"). A true and correct copy of the Guaranty is attached as Exhibit 2.

19. Under the Guaranty, Draiman and Multiut, unconditionally "[guaranteed] the payment to NGC promptly when due, or upon demand thereafter, pursuant to the terms of the Agreement, the full amount of all obligation or indebtedness due to NGC under the Agreement."

20. Draiman and Multiut are jointly and severally liable for their obligations under the Guaranty.

21. Draiman and Multiut breached the Guaranty by failing to pay, when due, the Unpaid Principal Balance and the Interest.

WHEREFORE, Dynegy requests entry of a judgment in its favor and against Multiut and Draiman, jointly and severally, for \$20,325,574.63 plus interest, through October 11, 2002, of \$1,673,139.68 and such other relief as the Court deems appropriate.

DYNEGY MARKETING and TRADE

By: 

One of its attorneys

GOULD & RATNER
Barry S. Hyman (#6188142)
Theodore F. Kommers (#06211381)
Suite 800
222 North LaSalle Street
Chicago, IL 60601
(312) 236-3003
Attorney No.: 04018

Nachshon Draiman preliminary creditors list: as of 3/24/2004

Yehuda Draiman, 2640 W. Touhy Ave., No. 210, Chicago, IL. 60645
Miriam Draiman, 2640 W. Touhy Ave., No. 210, Chicago, IL. 60645
M Draiman Corp. 2640 W. Touhy Ave., No. 210, Chicago, IL. 60645
U.S. Gas & Energy Corp. 2640 W. Touhy Ave., No. 210, Chicago, IL.
Burnham Terrace Partnership, 7520 Skokie, Blvd., Skokie, IL. 60077
Bank Financial, 3333 W. Touhy Ave., Lincolnwood, IL. 60712
Peterson Park Healthcare, 6131 N. Pulaski Rd., Chicago, IL. 60640
Credit card companies, P.O Box 6000, The Lakes, Nevada, 89163
Mortgage on condo at 150 Harbor Dr., 5th Fl., Chicago, IL. 60601
Greenberg Traurig, 77 W. Wacker, Suite 2500, Chicago, IL. 60601
Alan J. Mandel Ltd., 7520 N. Skokie, Blvd., Skokie, IL. 60077
Novoselsky Law Offices, 120 N. LaSalle, Suite 1400, Chicago, IL. 60602